

REMARKS/ARGUMENTS

The Examiner is requiring restriction to one of the following groups:

Group I: Claims 1-6, drawn to a yeast transformed with an Os-1 histidine kinase gene.

Group II: Claims 7-11, drawn to a method for identifying filamentous fungus growth inhibitors using a yeast strain transformed with an Os-1 histidine kinase gene.

Applicants provisionally elect Group I, Claims 1-6, drawn to a yeast strain transformed with an Os-1 histidine kinase gene, with traverse, on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctiveness between the identified groups. Also, it has not been shown that a burden exists in searching the claims of the two groups.

Moreover, the M.P.E.P. at § 803 states as follows:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants respectfully submit that a search of all of the claims would not impose a serious burden on the Office.

Finally, Applicants respectfully submit that, should the claims of Group I be found allowable, the Office should expand its search to the claims of Group II.

Accordingly, and for the reasons represented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

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